

**CITY OF MORGAN HILL  
JOINT SPECIAL AND REGULAR CITY COUNCIL AND SPECIAL  
REDEVELOPMENT AGENCY MEETING  
MINUTES - NOVEMBER 20, 2002**

**CALL TO ORDER**

Mayor/Chairperson Kennedy called the meeting to order at 6:01 p.m.

**ROLL CALL ATTENDANCE**

Present: Council/Agency Members Carr, Sellers, Tate and Mayor/Chairperson Kennedy  
Absent: Council/Agency Member Chang

**DECLARATION OF POSTING OF AGENDA**

City Clerk/Agenda Secretary Torrez certified that the meeting's agenda was duly noticed and posted in accordance with Government Code 54954.2

***City Council and Redevelopment Agency Action***

**CLOSED SESSIONS:**

City Attorney/Agency Counsel Leichter announced the below listed closed session items, indicating that Closed Session Item 1 would not be called this evening.

**1.**

**CONFERENCE WITH LEGAL COUNSEL - ANTICIPATED LITIGATION**

Significant Exposure/Initiation of Litigation

Authority: Government Code Sections 54956.9(b) & (c)

Number of Potential Cases: 2

**2.**

**CONFERENCE WITH LEGAL COUNSEL - POTENTIAL AND EXISTING LITIGATION:  
CONFERENCE WITH REAL PROPERTY NEGOTIATORS**

Legal Authority: Government Code 54956.8 & 54956.9(a) & (c) (1 potential case)

Real Property(ies) involved: APN 728-31-007 & 008; 25.50 acres located on the southwesterly side of Cochrane Road (St. Louise Hospital property)

City Negotiators: Agency Members; Executive Director; Agency Counsel; F. Gale Conner, special counsel; Rutan & Tucker, special counsel

Case Name: San Jose Christian College v. City of Morgan Hill

Case Numbers: Ninth Circuit Court of Appeal No. 02-15693

Closed Session Topic: Potential Existing Litigation/Real Estate Negotiations

**3.**

**PUBLIC EMPLOYEE PERFORMANCE EVALUATION**

Pursuant to Government Code 54957

Public Employee Performance Evaluation: City Attorney

Attendees: City Council, City Attorney

**4.**

**CONFERENCE WITH LEGAL COUNSEL - EXISTING LITIGATION**

Authority:	Government Code section 54956.9(a)
Case Name:	City of Campbell et al. v. CalPERS
Case Number:	OAH 5119
Attendees:	City Attorney, City Manager

**5.**

**CONFERENCE WITH LEGAL COUNSEL - EXISTING LITIGATION**

Authority:	Government Code section 54956.9(a)
Case Name:	Allivato v. City of Morgan Hill et al.
Case Number:	Santa Clara County Superior CV 810111
Attendees:	City Attorney, City Manager

**OPPORTUNITY FOR PUBLIC COMMENT**

Mayor/Chairperson Kennedy opened the closed session items to public comment. No comments were offered.

**ADJOURN TO CLOSED SESSION**

Mayor/Chairperson Kennedy adjourned the meeting to closed session at 6:03 p.m.

**RECONVENE**

Mayor/Chairperson Kennedy reconvened the meeting at 7:00 p.m.

**CLOSED SESSION ANNOUNCEMENT**

City Attorney/Agency Counsel Leichter announced that there was no reportable action taken in closed session.

**SILENT INVOCATION**

**PLEDGE OF ALLEGIANCE**

At the invitation of Mayor/Chairperson Kennedy, Bob Eltgroth, Chairman of the Bicycle Advisory Committee, led the Pledge of Allegiance.

**PROCLAMATION**

Mayor Kennedy presented Caroline Fahmy and Mark Paxton, Educational Data Systems, with a proclamation, recognizing them for attaining a Green Business status for their exemplary efforts in protecting the environment.

Carol Berg stated her appreciation of the Council's continued support for the Green Business Program. She said that Educational Data Systems has taken numerous steps to save energy, water, conserve resources, and prevent pollution. She felt that they have gone beyond their business

borders, noting that they renegotiated their contracts for their janitorial and pest control services and required the use of green cleaning products and integrated pest management principals. She felt that they were ambassadors to their clients and promoted ways to be a green business/organization. She presented them with a Green Business Certificate.

## **PRESENTATIONS**

Mayor Kennedy indicated that one of the projects that the City is proud of is the Villa Ciolino Housing Project which has won both state and national awards.

Business Assistance and Housing Services Director Toy indicated that the City would be presenting the National Association of Housing Rehabilitation Officials (NAHRO) Award of Excellence to South County and Weston Miles Design for their work on the Villa Ciolino Project. The award recognizes program innovation and affordable housing, recognizing the complexity of a project and the hard work that went into it. He indicated that the Villa Ciolino project replaced 20 substandard trailers and rental units with 42 units of affordable housing, working with a variety of regulatory agencies and putting together financing, as well as working through Measure P. He indicated that this is one of four NAHRO awards presented nationwide and is prestigious within the industry.

Mayor Kennedy presented Dennis Lalor, South County Housing; and Charles Weston, Leslie Miles and Ian Blackwood, Weston Miles Design, with a plaque from NAHRO, a national award for the Villa Ciolino housing project.

Mark Klemensik, assistant operating officer with the Santa Clara Valley Water District, stated that he was responsible for the watershed area in South County. He indicated that Carol Fredrickson, field operations manager, was also in attendance to address winter preparedness.

Ms. Fredrickson addressed the winter storm situation and the PL566 Flood Project, the Upper Llagas Creek Project. She addressed the winter weather forecast, routine stream maintenance program, the flood season maintenance and operations, and the emergency operations that have been conducted and will be undertaken this winter. She indicated that the annual preparedness meeting will be held with other agencies on Thursday, November 21, 2002. She indicated that the Water District has real time information on the website for flows in reservoirs from stream gages.

Mayor Kennedy inquired if there was anything that residents can do to prepare for winter storms?

Ms. Fredrickson recommended that citizens contact the Water District before commencing any work. She also recommended that citizens be prepared and know where sand bags can be found to prevent erosion or flooding, indicating that they can be found at the City's Corporation Yard and the El Toro Fire Station.

Mr. Klemensik indicated that the Water District's website is a good place to find information, including links to weather service to stay up with what is happening during a storm. He addressed Measure B, the Clean Safe Creeks Program, that passed on November 5, 2002 that assists in raising the level of services in South County without additional monies. He stated that Measure B also helps the PL566 project. He addressed funding situations and limitations. He indicated that the Water

District is moving forward with getting rights of entry. He indicated that almost all rights of ways for the diversion channel have been purchased. To keep the project on schedule, the Water District hired a contractor to evaluate the traffic impacts for the environmental documents. He informed the Council that three community workshops have been held and that another one is planned in June 2003. He felt that the Water District and the City of Morgan Hill have good communications on projects and that it has been a pleasure working with the City.

Council Member Sellers said that the remarks from the Water District's representatives were more discouraging than he was hoping for but that these are due to federal and state issues that the City has not been able to affect. However, he was somewhat encouraged by hearing about the proposition funds. He agreed that the City has had good relationships with legislators and that he meets with them on a variety of issues. The City is establishing a relationship with the new members of congress as well as new assembly members. He requested that Mr. Klemensik/Water District join the City in this effort in order to help keep Proposition 50 moving forward. He said that the City is redoing its downtown plan and that this is directly affected by this issue because the City will need to construct buildings to flood standards that far exceed those in place when the PL566 goes through. He wanted to make sure that there is a close working relationship between the Water District and the City in the next few months and years to complete the PL566 project.

Mayor Kennedy indicated that he and Council Member Tate meet with the Water District on a quarterly basis. He said that a meeting was held last Friday. At that time, it was suggested that all elected legislators be invited to the next meeting to keep the focus on the need for funding to keep this project moving forward.

### **CITY COUNCIL REPORT**

Mayor Kennedy indicated that it was his understanding that Council Member Chang injured her ankle and has been taken to the emergency room at St. Louise Regional Hospital. Therefore, she would not be able to present her report this evening

### **CITY MANAGER'S REPORT**

City Manager Tewes indicated that a couple of weeks ago, staff came before the Council and suggested that the continuing economic recession in Silicon Valley is having an impact on local revenues. He said that since the Council adopted the budget, the City would have another \$600,000 revenue shortfall. In light of this fact, the Council recently directed staff to take some steps to address savings and use reserves. He stated that in the past week, the state legislative analyst reported that the State realizes that they are \$6 billion off and that the projection for next year is \$22 billion. He said that the City needs to remain vigilant about the potential for state actions that would reduce City revenues even further. He felt the City needs to anticipate what the State legislature and the Governor will be asking for in terms of further reductions in city revenues next year.

### **CITY ATTORNEY'S REPORT**

City Attorney Leichter indicated that she distributed the Monthly Litigation Summary. She addressed the status of the San Jose Christian College case, stating that the matter is currently at the

9<sup>th</sup> Circuit Court of Appeal. The matter was fully briefed as of last week and should be set for hearing in early spring. She indicated that the City received amicus support from the California League of Cities, with 61 cities signing in support of the City's position as well as the American Planning Association. She further indicated that a law firm from Boston, Massachusetts filed an appeal brief on the City's behalf. She stated that the City has nationwide support going into this and that staff is hopeful of the outcome after the hearing in March.

### **PUBLIC COMMENT**

Mayor/Chairperson Kennedy opened the floor to comments for items not appearing on this evening's agenda.

Gerry Lyon, presented a petition for stop signs on Spring Avenue, between Del Monte and DeWitt Avenues. He stated that the petition addresses communication with Scott Creer on the subject. Mr. Creer advises him that a study was conducted in April 2000 where it was found that 1,000 cars a day travel along Spring Avenue. Since that time, the traffic flow has increased substantially attributed to population growth south and west of DeWitt and Spring Avenue and the annexation of properties on the south side of Spring and the Butterfield extension. He stated that traffic is now using Spring Avenue as a by path to go from DeWitt onto Butterfield, causing a large amount of traffic in the morning and afternoon rush hours at high rates of speed. He indicated that area residents are requesting the installation of stop signs to help with the traffic problem being faced. He said that last year, one accident occurred at the corner of Willow Creek Drive and Spring Avenue, causing a serious injury. He stated that there are 10 side roads that feed onto Spring Avenue between Del Monte and DeWitt. In addition to this, there have been sidewalks installed and the street has been widened. He stated that the police department has advised area residents that they cannot patrol this street because they are visible to traffic. Residents are more concerned about the impact on the large number of joggers and for the safety of children at play. He felt that it would be appropriate to install at least one stop sign at one of the middle intersections on Spring in order to slow traffic down and provide a safe access onto Spring Avenue.

City Manager Tewes agreed to meet with Mr. Lyon and the neighbors to discuss their issues. He would report back with a recommendation to the Council.

No further comments were offered.

### ***City Council Action***

#### **CONSENT CALENDAR:**

Mayor Kennedy requested that items 4 and 7 be pulled from the Consent Calendar.

**Action:**        *On a motion by Council Member Tate and seconded by Council Member Sellers, the City Council, on a 4-0 vote with Council Member Chang absent, **Approved** Consent Calendar Items 1-3, 5, 6 and 8-25, as follows:*

1.        **OCTOBER 2002 CITY COUNCIL FINANCE AND INVESTMENT REPORT**

**Action:** ***Accepted** and **Filed** Report.*

2. **BI-ANNUAL VACANCY RATE SURVEY**  
*Action: **Established** the Bi-Annual Vacancy Rate for October 2002, as Recommended by the Planning Commission.*
3. **FOOD DRIVE CO-SPONSORSHIP**  
*Action: **Directed** Staff to Administer a Second Harvest Food Drive.*
5. **SPORTS MANAGEMENT GROUP CONSULTING FEE AND SCOPE OF WORK FOR AQUATICS COMPLEX PROJECT**  
*Action: **Authorized** the City Manager to Execute a Contract in the Amount of \$45,000 With a 10% Contingency to Provide Consulting Services With Design Review, Market Analysis, Fee Structure, Operational Structure, and Business Plan Development for the Aquatics Complex Phase I.*
6. **COMMUNITY AND CULTURAL CENTER PROJECT AND COMMUNITY PLAYHOUSE OCTOBER CONSTRUCTION PROGRESS REPORT**  
*Action: **Information** Only.*
8. **CHANGE ORDER APPROVAL FOR ADDITIONAL WORK ON THE 2001-2002 ROADWAY REPAIR AND SLURRY SEAL PROJECT**  
*Action: **Approved** Change Order in the Amount of \$30,250 for Additional Work on the 2001-2002 Roadway Repair and Slurry Seal Project by Contractor Silicon Valley Paving.*
9. **APPROVAL OF CONTRACT CHANGE ORDER FOR MAIN AVENUE WELL DRILLING PROJECT**  
*Action: **Approved** a Contract Change Order in the Amount of \$25,908 for the Construction of the Main Avenue Well Drilling Project to Increase Size of Casing.*
10. **COUNCIL RESOLUTION SUPPORTING GRANT FUNDING FOR SIGNING AND STRIPING FOR CLASS II BIKEWAYS - Resolution No. 5625**  
*Action: **Adopted** Resolution No. 5625 Supporting the Signing and Striping for Class II Bikeways as the City's 2003-2004 Bicycle Transportation Account (BTA) Project Candidate; and 2) **Appropriated** 10% Matching Funds of Total Project Cost for Construction. The Estimated Total Project Cost is \$86,000. In Addition, City Shall Cover Costs Associated With Planning and Design.*
11. **FIRST QUARTER REPORT, 2002-2003 WORKPLAN**  
*Action: **Accepted** Report.*
12. **EXTENSION OF CONTRACT FOR CONSULTANT PLANNING SERVICES**  
*Action: **Authorized** the City Manager to Execute an Extension to the Consultant Services Agreement for Contract Planning Services at a Cost Not to Exceed \$30,000.*
13. **RESIDENTIAL DEVELOPMENT CONTROL SYSTEM (RDSCS) 2002 QUARTERLY REPORT NO. 4**  
*Action: **Accepted** and **Filed** the RDSCS Fourth Quarter Report.*

**14. WAIVE READING OF ORDINANCE NO. 1585, NEW SERIES**

**Action:** **Waived** the Reading, and **Approved** Ordinance No. 1585, N.S. and **Declared** That Said Title, Which Appears on the Public Agenda, Shall Be Determined to Have Been Read by Title and Further Reading Waived; Title as Follows: An Ordinance of the City Council of the City of Morgan Hill Approving of a Development Agreement, DA-02-04: Sunnyside-Quail Creek for Application MP 01-11: Sunnyside-South Valley Developers.

**15. WAIVE READING OF ORDINANCE NO. 1586, NEW SERIES**

**Action:** **Waived** the Reading, and **Approved** Ordinance No. 1586, N.S. and **Declared** That Said Title, Which Appears on the Public Agenda, Shall Be Determined to Have Been Read by Title and Further Reading Waived; Title as Follows: An Ordinance of the City Council of the City of Morgan Hill Approving Zoning Amendment ZA-02-06 Watsonville-City of Morgan Hill RDA Changing the Zoning Designation From Public Facilities to R2-3,500 on a 1.55 Acre Site. (APN 767-23-017).

**16. WAIVE READING OF ORDINANCE NO. 1587, NEW SERIES**

**Action:** **Waived** the Reading, and **Approved** Ordinance No. 1587, N.S. and **Declared** That Said Title, Which Appears on the Public Agenda, Shall Be Determined to Have Been Read by Title and Further Reading Waived; Title as Follows: An Ordinance of the City Council of the City of Morgan Hill Approving an Amendment to the Precise Development Plan Established under Ordinance No. 1522, New Series for a 62-unit R-1(7,000) & R-2 (3,500)/RPD Single-family Residential Planned Development Located on the South Side of Llagas Avenue, and the West Side of Hale Avenue. (APNs 764-32-005, 010 & 012).

**17. WAIVE READING OF ORDINANCE NO. 1588, NEW SERIES**

**Action:** **Waived** the Reading, and **Approved** Ordinance No. 1588, N.S. and **Declared** That Said Title, Which Appears on the Public Agenda, Shall Be Determined to Have Been Read by Title and Further Reading Waived; Title as Follows: An Ordinance of the City Council of the City of Morgan Hill Approving a Development Agreement, DA 02-06 for MP 01-05: Llagas-Delco (APN 764-32-005, 010 & 012).

**18. WAIVE READING OF ORDINANCE NO. 1589, NEW SERIES**

**Action:** **Waived** the Reading, and **Approved** Ordinance No. 1589, N.S. and **Declared** That Said Title, Which Appears on the Public Agenda, Shall Be Determined to Have Been Read by Title and Further Reading Waived; Title as Follows: An Ordinance of the City Council of the City of Morgan Hill Amending Sections 15.08.010 (Adoption of the California Building Code and the Uniform Building Code), 15.08.020 (Short Title), 15.08.040 (Additions, Amendments and Deletions), 15.08.090(A) (Section 310.7 Amended--single-room Occupancies (SRO)), 15.08.100(A) (Section 2320.11.3, Item 5, Deleted--gypsum Board Use), 15.08.110(A) (Section 2320.11.3, Item 7, Amended--conventional Construction Provisions (Bracing)), 15.08.120(A) (Section 1900.4.4 Amended-- Minimum Slab Thickness), 15.08.130(A) (Section 1806 Amended-- Foundation Reinforcement), 15.08.140(A) (Section 3205.2 Amended--projections and Clearance), 15.08.150(A) (Section 3205 Amended by Adding Section 3205.8--Vertical Supports), 15.08.160(A) (Section 3205.3 Amended--Marquee Length), 15.08.170(A) (Section 3403.2 Amended-- Suspended Ceiling Upgrade), 15.08.190(A) (Chapter 13 and Appendix Chapter 13 of the 1997 Uniform Building Code

*Deleted), 15.08.200(A) (Table 1-A of the 1997 Uniform Building Code Deleted), and 15.08.210 (Sections 904.2.2 Through 904.2.8 of the 1997 Uniform Building Code Deleted) of Chapter 15.08 (Building Code) of Title 15 (Buildings and Construction) of the Morgan Hill Municipal Code, Adopting The 2001 Edition of the "California Building Code" Volumes 1, 2, & 3, Including Appendix Chapters 3 Division II, 4, 15, 18, 31, 33 and 34, with Amendments, as the Building Code of the City of Morgan Hill.*

**19. WAIVE READING OF ORDINANCE NO. 1590, NEW SERIES**

**Action:** **Waived** the Reading, and **Approved** Ordinance No. 1590, N.S. and **Declared** That Said Title, Which Appears on the Public Agenda, Shall Be Determined to Have Been Read by Title and Further Reading Waived; Title as Follows: An Ordinance of the City Council of the City of Morgan Hill Amending Sections 15.12.020 (Adoption of the National Electrical Code) and 15.12.060 (Article 90-4 of the 1996 National Electrical Code), and Deleting Section 15.12.040 (Additions, Amendments and Deletions) of Chapter 15.12 (Electrical Code) of Title 15 (Buildings and Construction) of the Morgan Hill Municipal Code and Adopting the 2001 Edition of the "California Electrical Code," Published by the National Fire Protection Association, with Amendments, as the Electrical Code of the City of Morgan Hill.

**20. WAIVE READING OF ORDINANCE NO. 1591, NEW SERIES**

**Action:** **Waived** the Reading, and **Approved** Ordinance No. 1591, N.S. and **Declared** That Said Title, Which Appears on the Public Agenda, Shall Be Determined to Have Been Read by Title and Further Reading Waived; Title as Follows: An Ordinance of the City Council of the City of Morgan Hill Amending Sections 15.16.020 (Adoption of the Uniform Mechanical Code) And 15.16.040 (Amendments and Deletions) of the Morgan Hill Municipal Code and Adopting the 2001 Edition of the "California Mechanical Code," and the 2000 Edition of the "Uniform Mechanical Code," Published by the International Association of Plumbing and Mechanical Officials, with Amendments, as the Mechanical Code of this City.

**21. WAIVE READING OF ORDINANCE NO. 1592, NEW SERIES**

**Action:** **Waived** the Reading, and **Approved** Ordinance No. 1592, N.S. and **Declared** That Said Title, Which Appears on the Public Agenda, Shall Be Determined to Have Been Read by Title and Further Reading Waived; Title as Follows: An Ordinance of the City Council of the City of Morgan Hill Amending Sections 15.20.010 (Short Title), 15.20.020 (Adoption of the California Plumbing Code and the Uniform Plumbing Code), 15.20.030 (Scope, Organization, Enforcement, Fees and Inspections), 15.20.040 (Amendments and Deletions), 15.20.050 (Section 604.2 Amended–Water Lines and Fittings), 15.20.060(A) (Section 608.2 Amended–Pressure Regulators), 15.20.070(A) (Sections 609.3.1 and 609.3.2 Amended–Piping Under Slabs), 15.20.080(A) (Section 710.1 Amended–Backwater Valves), and 15.20.100(A) (Section 1001.0 Amended–Vents and Traps) of Chapter 15.20 (Plumbing Code) of Title 15 (Buildings and Construction) of the Morgan Hill Municipal Code to Adopt the 2001 Edition of the "California Plumbing Code," and the 2000 Uniform Plumbing Code Published by the International Association of Plumbing & Mechanical Officials, with Amendments, as the Plumbing Code of this City.

**22. WAIVE READING OF ORDINANCE NO. 1593, NEW SERIES**



**Action:** **Waived** the Reading, and **Approved** Ordinance No. 1593, N.S. and **Declared** That Said Title, Which Appears on the Public Agenda, Shall Be Determined to Have Been Read by Title and Further Reading Waived; Title as Follows: An Ordinance of the City Council of the City of Morgan Hill Amending Section 1.01.010 (Adoption of the Morgan Hill Code), of Chapter 1.01 (Code Adoption) of Title 1 (General Provisions) of the Morgan Hill Municipal Code to Include the Current Editions of the California Building, Administrative, Electrical, Mechanical and Plumbing Codes.

**23. WAIVE READING OF ORDINANCE NO. 1594, NEW SERIES**

**Action:** **Waived** the Reading, and **Approved** Ordinance No. 1594, N.S. and **Declared** That Said Title, Which Appears on the Public Agenda, Shall Be Determined to Have Been Read by Title and Further Reading Waived; Title as Follows: An Ordinance of the City Council of the City of Morgan Hill Enacting Chapter 18.80 of the Municipal Code of the City of Morgan Hill Regarding Development Agreements.

**24. WAIVE READING OF ORDINANCE NO. 1595, NEW SERIES**

**Action:** **Waived** the Reading, and **Approved** Ordinance No. 1595, N.S. and **Declared** That Said Title, Which Appears on the Public Agenda, Shall Be Determined to Have Been Read by Title and Further Reading Waived; Title as Follows: An Ordinance of the City Council of the City of Morgan Hill Approving an Amendment to a Precise Development Plan for a 164 Unit R-1(7,000) & R-2 (3,500)/RPD Single-family Residential Planned Development Located on the North Side of East Central Avenue at Calle Hermosa. (APN 726-27-037).

**25. WAIVE READING OF ORDINANCE NO. 1596, NEW SERIES**

**Action:** **Waived** the Reading, and **Approved** Ordinance No. 1596, N.S. and **Declared** That Said Title, Which Appears on the Public Agenda, Shall Be Determined to Have Been Read by Title and Further Reading Waived; Title as Follows: An Ordinance of the City Council of the City of Morgan Hill Approving a Development Agreement, DA-02-05: East Central - Central Park for Application MP-01-10: Central - Central Park Development, LLC.

**4. PERFORMANCE MEASURE UPDATE - NOVEMBER 2002**

Mayor Kennedy stated that he was pleased to see the City is moving forward with performance measurements as it is a good start. He thanked staff for this effort.

**Action:** On a motion by Mayor Pro Tempore Carr and seconded by Council Member Tate, the City Council, on a 4-0 vote with Council Member Chang absent, **Received** and **Filed** the update.

**7. SOUTH VALLEY CIVIC THEATRE LEASE OF THE MORGAN HILL COMMUNITY PLAYHOUSE**

Mayor Kennedy inquired as to the availability of the theater to other groups in addition to South

Valley Civic Theatre who may want to use the facility.

Business Assistance and Housing Manager Maskell responded that South Valley Civic Theatre is clearly aware that they do not have the exclusive use of the theater. She indicated that South Valley Theatre will have priority over the calendar each year. They will reserve their dates and everyone else would be able to select their dates. On the days that they do not have performances or have performances in the evening, South Valley Theatre would be pushing their sets past center states, making the front portion of the stage available to others.

Mayor Pro Tempore Carr indicated that South Valley Theatre would have a need of the facility approximately 125-days a year for their performances.

Council Member Sellers felt that there were other opportunities to rent the theater to others even when in use by South Valley Theatre.

**Action:** *On a motion by Council Member Tate and seconded by Mayor Pro Tempore Carr, the City Council, on a 4-0 vote with Council Member Chang absent: 1) **Approved** the Lease Agreement with South Valley Civic Theatre ("SVCT") for Use of the Morgan Hill Community Playhouse ("Playhouse"); and 2) **Authorized** the City Manager to Execute the Lease Agreement and do Whatever is Necessary to Effectuate the Agreement.*

## ***Redevelopment Agency and City Council Action***

### **CONSENT CALENDAR:**

**Action:** *On a motion by Agency/Council Member Tate and seconded by Agency/Council Member Sellers, the Redevelopment Agency Board/City Council, on a 4-0 vote with Vice-chairperson/Council Member Chang absent, **Approved** Consent Items 26 - 28, as follows:*

#### **26. OCTOBER 2002 REDEVELOPMENT AGENCY FINANCE AND INVESTMENT REPORT**

**Action:** ***Accepted** and **Filed** Report.*

#### **27. COMMUNITY CENTER LAND TRANSFER**

**Action:** ***Authorized** the Executive Director to Prepare and Execute a Grant Deed Transferring Ownership of the Land Comprising the Site for the Morgan Hill Community and Cultural Center at 17000 Monterey Road, Gavilan College Satellite Campus at 17060 Monterey Road, and the Morgan Hill Community Playhouse at 17090 Monterey Road, From the Morgan Hill Redevelopment Agency to the City of Morgan Hill; 2) **Authorized** the City Manager to do all That is Necessary to Accept the Property on Behalf of the City; and 3) **Directed** the City Clerk to Have the Grant Deed Recorded in the Office of the County Recorder of Santa Clara County.*

**28. JOINT SPECIAL AND REGULAR CITY COUNCIL AND SPECIAL REDEVELOPMENT AGENCY MEETING MINUTES OF NOVEMBER 6, 2002**

***Action: Approved the minutes as written.***

## ***City Council Action***

### **PUBLIC HEARINGS:**

**29. DEVELOPMENT AGREEMENT AMENDMENT DAA 00-05: MALAGUERRA-MANCIAS Ordinance No. 1597, New Series**

Director of Community Development Bischoff presented the staff report.

Mayor Kennedy opened the public hearing. Julian Mancias, spoke on behalf of his father who owns the property, requesting Council approval of the extension of time. He said that there was a problem with the thru road that was changed to a cul de sac. He said that a lot of time has been spent to clear the dilemma. He stated that he would be diligent to ensure project completion within five months.

No further comments being offered, the public hearing was closed.

***Action:*** *On a motion by Council Member Tate and seconded by Council Member Sellers, the City Council, on a 4-0 vote with Council Member Chang absent, Waived the Reading in Full of Development Agreement Amendment (DAA) Ordinance No. 1597, New Series.*

***Action:*** *On a motion by Council Member Tate and seconded by Council Member Sellers, the City Council Introduced Development Agreement Amendment (DAA) Ordinance No. 1597, New Series, by title only, as follows: AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MORGAN HILL APPROVING AN AMENDMENT TO ORDINANCE NO. 1530, NEW SERIES, AMENDING THE DEVELOPMENT AGREEMENT FOR APPLICATION MP 99-26: MALAGUERRA-ANSUINI/MANCIAS TO INCORPORATE A FIVE-MONTH EXTENSION OF TIME FOR SEVEN BUILDING ALLOTMENTS IN PHASE ONE AND A SIX-MONTH EXTENSION OF TIME FOR SIX BUILDING ALLOTMENTS IN PHASE TWO. (APN 728-35-016; 728-35-017) by the following roll call vote: AYES: Carr, Kennedy, Sellers, Tate; NOES: None; ABSTAIN: None; ABSENT: Chang.*

### **OTHER BUSINESS:**

**30. REPORT ON ACCOMPLISHMENTS AND PLANS OF THE MORGAN HILL COMMUNITY HEALTH FOUNDATION (MHCHF) AND THE JOINT PLANNING TASK FORCE**

Bill Brown thanked Mayor Kennedy, Council Member Chang and City Manager Tewes for

attending a meeting held on November 18, 2002 at Woodland Mobile Homes in order to explain to residents the status of medical care in Morgan Hill and what the Foundation is trying to do. He encouraged other members of the public who can put a group together and are interested in finding out more about medical services opportunities to contact the Foundation. He indicated that since the last meeting with the Council, substantial progress has been made. He said that a Joint Task Force Committee has been established and has been busy putting together a report. He stated that the Joint Task Force Committee is made up from representatives from the hospital and representatives from the Foundation Board, indicating that this will become a permanent committee. He said that the Council will be receiving reports on the status of the Foundation's program. He indicated that Joe Mueller will address goals, strategies and accomplishments; John Ray, Foundation Director, will present a report on the hospital and Ted Fox will address the current initiatives. He stated that the last time the Foundation and Council met, the Foundation was moving in two new doctors, Drs. Gilpin, who located in the medical office building at the former St. Louise site, and are practicing OB-GYN. He encouraged those who have need of such service to talk with them and give them an opportunity. He said that the Foundation is in discussion with other physicians.

Joe Mueller reviewed the plans and goals for the Foundation and how it plans to get there. He highlighted the vision statement. He addressed the short term goals (attained within one year) as follows: 1) recruit six more physicians; 2) establish urgent care services with evening and weekend hours; and 3) reestablish basic lab and x-ray services. He addressed the long term goals (3-10 year period) as follows: 1) recruit 10 more primary care physicians; 2) recruit specialists to meet 30% of the community's need within three years and 60% within five years; 3) open an outpatient surgery service at the former St. Louise Hospital site; and 4) open an acute in patient unit at the former St. Louise hospital site. He addressed the impediments being faced in reaching these goals (e.g., shortage of primary care physicians; lower than normal use of local services by area residents; high costs; difficulty in changing employee benefit plans to allow use of local providers; health care economic and regulatory environment; and slow growth due to the City's residential development control system). He indicated that one development that will help the City is the development of the mid-Coyote Valley urban reserve as potential customers for Morgan Hill medical providers.

Mr. Mueller said that the Foundation will work with the various stake owners in order to work collaboratively with the main focus of physician recruitment. The Foundation is doing this in partnership with St. Louise Regional Hospital. He said that physician recruitment is an expensive proposition as it could cost approximately \$150,000-\$250,000 to bring a physician into the community. The Foundation will need to work with the local community to build the market share. It needs to be assessed why residents go north for physician care and determine what needs to be done to try to change this pattern. He felt that this can be achieved by increasing communications with residents and employers and improve marketing/advertising. He stated that the Foundation is willing to talk to any groups in town about this subject. The Foundation will work with local employers so that employees can have affordable choices that will allow use of local facilities. The Foundation will work with St. Louise Regional Hospital and other providers to ensure that the needs of all residents are met, including fundraising efforts. He addressed the accomplishments of the Board.

John Ray, Executive Director for the Foundation, addressed the Morgan Hill Community Health Services Plan, the product of the Joint Planning Task Force. He informed the City Council that Ted

Fox, George Chiala, Joe Dale, George Guglielmo, Glenda Garcia, Joe Mueller, Dr. Ted Roussere and he are members of the Task Force. He addressed the key aspects of the Community Health Services Plan. He said that the Task Force believes that the plan demonstrates the mutual commitment of both St. Louise Hospital and the Foundation in working together to meet the medical needs of the residents of Morgan Hill. He stated that the Plan envisions rebuilding the healthcare system in Morgan Hill. He emphasized that if medical services are not used, they will not be made available. He said that by providing good medical services, citizens need to be encouraged to use them. He said that there is a shortage of doctors, registered nurses and trained x-ray and laboratory technicians in California. He indicated that a process and the establishment of the Morgan Hill Community Advisory Board, a standing committee of St. Louise Hospital, has been established as the forum to make decisions in order to meet the needs of the residents of Morgan Hill.

Ted Fox, St. Louise Regional CEO, thanked all members of the Joint Planning Task Force. He stated that these individuals worked many uncompensated hours and worked through a lot of issues to determine the needs and what can be done to work forward and making these needs come to the fore front. He provided the Council with current initiatives that include physician recruitment in the Morgan Hill market, urgent care, and lab and x-ray as part of the strategic plan. He addressed current initiatives as follows: 1) physician recruitment, indicating that Drs. Brian and Maria Gilpin are a great addition to the hospital OB-GYN medical staff. 2) reestablishment of urgent care services in the medical office building. 3) Reviewing the possible establishment of setting up the x-ray and laboratory services in the medical office building. He said that fundraising initiatives will be necessary in order to purchase the necessary lab and x-ray equipment. 4) Planning for the former St. Louise Hospital facility. He indicated that they are in the process of assessing the physical condition of the hospital and are in the process of looking at ambulatory care services and post acute care services that can be offered in this facility. 5) The hospital is actively engaged in negotiations with a variety of health care providers as possible tenants. He said that this has been a classic case of community-based planning and is what hospitals need in order to do it right. He felt that the Task Force and the community are moving in the right direction.

Mr. Brown informed the community that when the Foundation first began, they were in an adversarial position with the managers of St. Louise Regional Hospital which was Catholic Healthcare West (CHW). He said that the hospital was original built by the Daughters of Charity who turned the management over to CHW. He indicated that in December 2001, the Daughters of Charity took back the hospital. He said that there has been a cooperative arrangement with Mr. Fox and his fellow workers and have made great progress. He thanked St. Louise Regional Hospital, especially the Daughters of Charities, for their sensitivity and their help in the community. He felt that good progress has been made and continues to look forward in making more progress.

Mayor Kennedy opened the floor to public comment.

Marion Smith stated that she was not here to speak for herself or her husband this evening as they have had their problems with the move of the San Jose Medical Group from Morgan Hill. She indicated that she approves of the proposal and hopes that the urgent care facility is built as quickly as possible as it is desperately needed in Morgan Hill. She has heard the Council state that it needs the support of the people of Morgan Hill, noting that the citizens in Morgan Hill have supported several Council actions such as building the hospital, recycling program, recreation division, etc.

She inquired if the citizens would have the leadership of the entire Council that it deserves on the medical problem. She requested that each council member state their honest opinion as to whether they would work hard and become a leader for medical services in Morgan Hill or whether they do not want it.

John Legal, representing Hacienda Valley Mobile Estates, applauded the individuals who are trying to bring medical services back to Morgan Hill. He also applauded the Council for working toward this goal. However, he felt that this goal was working very slowly and needs to be sped up. He said that a lot of veterans who have returned from wars are now aging. He said that the community needs to make sure that it is taking care of these individuals. He has spoken to some of the residents at Hacienda Valley Mobile Estates since the Monday meeting, indicating that the residents would like to hear about this issue. Residents would like to know if there are local physicians and medical care. He stated that Hacienda Valley Mobile Estates would like a presentation similar to that made at the Woodland Mobile Estates.

Council Member Sellers noted that the Council is just accepting the report and would weigh on it more as it progresses. He stated that the discussion in the report about physician recruitment reminded him of the efforts the Council undertook 10-15 years ago in the downtown area and still undertaking to bring in more businesses. He was pleased to hear that the Foundation is talking to doctors who are willing to relocate to Morgan Hill and bring their patient base with them. He encouraged all sides in the negotiations to try to be circumspective because there is a narrow window where the community could start to build a critical mass of physicians. If this is not done quickly, the City would be in a situation where there would be fewer doctors a year from now than we have today. He applauded the effort and stated that he would like the Council to do whatever it can to support this effort. He wanted to move quickly and that all sides understand how narrow this window period is. He said that he had the pleasure of serving as one of the members on the medical services board. He knows that there is a tremendous amount of work that each Council member does individually in their different capacities, not all being visible. He noted that two Council members have very visible roles in medical services. It was his feeling that all Council members have been very active in this regard. He noted that San Jose is a much larger city and is losing its downtown hospital. He stated that much larger entities have done less than Morgan Hill has. He stated that the Council will keep pushing forward, indicating that the Council feels as anxious as everyone who has spoken this evening. He stated that he would like to entertain a discussion in contract negotiations with city employees and to do what it can through the City-School Liaison Committee to talk with the School District as well about local medical plans. He appreciated the report and looks forward to helping implement it.

Mayor Kennedy thanked all of the members from Morgan Hill Community Health Foundation, representatives from St. Louise Regional Hospital and Daughters of Charity, and the citizen volunteers and community members who worked together on this report. He felt that it was a good start and that good progress has been made. With the closure of the San Jose Medical Group facility, urgent care facility and the continued loss of doctors, it places Morgan Hill in a crisis situation. He felt that there is a void/vacuum of medical services in Morgan Hill. He understands that citizens can use the St. Louise Regional Hospital in Gilroy or Kaiser Santa Teresa Hospital in San Jose. However, for many citizens, this is difficult if not a life threatening distance to travel. He said that a Sunday San Jose Mercury News article talks about the fact that medical and health

delivery systems in the country are dysfunctional and in a crisis level. He said that individuals expect more and more and are not willing to pay the cost to get the services that are expected. He felt that citizens have been insulated by employers and insurance providers from the actual cost of services. If the community wants local doctors to be successful, citizens need to use local doctors. He noted that many of us are going through the decision on what medical services to select.

Mayor Kennedy suggested that the Committee take actions that would help bring medical services to the community. He recommended that health fairs be held in Morgan Hill, making a list of doctors available in Morgan Hill, publishing information on local providers, and describe what decisions can be made that would help utilize local doctors. He felt that there were a lot of things that need to be focused on to address the immediate concerns of Ms. Smith. In response to Ms. Smith's comment, he stated that it has not just been two Council members working on medical services and that the entire Council has worked toward this effort. He felt that all Council members shared the concerns that have been raised. He encouraged community members who have choices to use local medical service providers. If not used, the community will lose them.

Council Member Tate responded to the question about leadership on medical services in the City of Morgan Hill. He said that the Council went through a process where it established a community health foundation. He indicated that a couple of Council members have been assigned to this foundation and therefore are more visible. The Council has been meeting regularly with the Foundation who reports to the Council on a regular basis. He said that the Council is looking to the Foundation to provide leadership on medical services. The Council has heard the report from the Foundation and where they would like to go with medical services. He heard a frustrating comment that the City is not getting there quick enough and he shares this frustration. However, he believes that the Foundation is moving as fast as they can. He said that it is the Morgan Hill Community Health Foundation that has the leadership role. In the report presented this evening, it was indicated that there are a lot of citizens in the community who do not choose to use local medical services. He asked if it was the business of the city council, representing local citizens, to try and market change in habits in order to use local services. He said that this is part of the plan that the Council is looking at addressing. He noted that Mayor Kennedy and he have made pleas for citizens to use local medical services. He said that the Council represents the citizens but cannot force citizens to use things that they do not want to use. He felt that the question of what is the role of government and how far does it go if the citizens do not choose to use the services is a philosophical one.

Mayor Pro Tempore Carr commented on what has been prepared and presented this evening. He felt that one thing of value is that there are finally measurable goals attached to policy statements that the Council adopted over two years ago. He said that these measurable goals would help the Council in moving forward. He noted that dates have been identified in the report in order to assess what is being done in the area of increasing medical services and how to assess whether the city is moving in the right direction. He urged the Foundation to continue its efforts and step up its efforts in the area of fundraising so that the Council can allocate the money earmarked for medical services on a matching basis. The Council would like to send these monies to the Foundation for doing the right things that have been laid out in the report. He felt that the Council needs help from the Foundation and the community in order to do so. He said that he would keep the goals attached to the policy objectives close at hand and would monitor them for assessment to make sure that it is moving in the right direction.

**Action:**        *On a motion by Council Member Tate and seconded by Council Member Sellers, the City Council, on a 4-0 vote with Council Member Chang absent, **Received** and **Accepted** Report on MHCHF's Goals, Strategies and Accomplishments.*

**Action:**        *On a motion by Council Member Tate and seconded by Council Member Sellers, the City Council, on a 4-0 vote with Council Member Chang absent, **Received** and **Accepted** the Morgan Hill Community Health Services Plan.*

**Action:**        *It was the consensus of the City Council **to consider** agenda item 33 at this time.*

### **33.    NEW MORGAN HILL POLICE FACILITY**

City Manager Tewes presented the staff report and indicated that there is an adopted program for the police station. Under the adopted program established in the capital improvement program, the City would be acquiring a site this fiscal year, designing the building the next year, constructing in the following year and opening it for operation in fiscal year 2005/06 (3 years from now). He indicated that a portion of the facility would be paid by new growth through development impact fees and a portion of the facility would be paid by the existing community through allocations of the general fund. Because the project would require more money to construct than can be saved, both projects would require some financing with required borrowing to have annual debt service to be paid out of impact fees collected and by annual general fund budget appropriations. He indicated that a new facility would cost approximately \$8.4 million in today's dollars.

City Manager Tewes informed the City Council that the preferred site for the new police station adjacent to the court house may no longer be viable. He indicated that there is a different option for moving into an existing industrial building in an industrial area that has been presented by the owners of the building. He stated that staff is not asking that the Council accept any real estate offers, approve any particular financing schemes nor adopt a budget. However, should the Council be interested in pursuing the new option, staff would need to perform additional investigations on the costs to retrofit the building for a police station, negotiate appropriate transactions, and arrange for the financing earlier than would have been conducted in the currently adopted program. He addressed the advantages and disadvantages to building a new building or relocating the police station to an existing industrial building on Vineyard Boulevard. He indicated that the Chief of Police is recommending that the Council proceed with the new option to convert the existing industrial building as a police facility. He addressed the financial implications for both options. He said that staff is not proposing a financing scheme but presenting it in terms of magnitude and to illustrate the differences between the two proposals. He requested Council discussion regarding the community's expectations. If the Council chooses to continue with the adopted program, staff would continue to identify potential sites and begin the acquisition process on schedule. Should the Council choose to explore the existing industrial building option, staff would obtain more refined estimates of the cost to retrofit the facility for police needs. Staff would also begin planning for the surplus space and negotiate acquisition costs.

Council Member Tate stated that he did not see information about the sale of the existing police facility and factoring this into any cost recovery.



City Manager Tewes stated that the adopted financing plan will have the sale of the existing police facility and that the proceeds from the sale would return to the Redevelopment Agency for redevelopment purposes. He indicated that Redevelopment Agency funds cannot be used to finance a police facility.

Council Member Tate felt that there would be a benefit to the Agency from the sale of the existing property.

Mayor Kennedy opened floor to public comment.

Mark Brazeal indicated that he was speaking on behalf of the Police Officers Association, Community Services Officers Association, and members of AFSCME who are working in the current police facility. He reaffirmed the information before the City Council. He said that a few years ago, when a plan was being developed for civic improvement, it was a nice idea to have a new police facility. In 2002, a nice idea has become a necessity for three reasons: 1) space, 2) security, and 3) compliance. He indicated that police personnel are unable to work efficiently in the existing facility. The existing facility is cramped and was not designed for the type of work that needs to be done. He stated that there is insufficient space for ongoing training in terms of defensive tactics. He said that there is insufficient storage, creating security challenges and not enough interview rooms. Staff currently operates with two interview rooms, resulting in inadequate facilities to separate victims from suspects, juveniles from adults, and men from women. He indicated that guests with non secured business walk through secured area with access to confidential information. Off site evidence storage is not the norm and needs to be changed. The existing holding facility ventilation system is shared between the evidence room, the holding facility and the watch commander's office. He expressed concern with air borne pathogens. He indicated that the current facility is not in compliance with the Americans with Disability Act (ADA). He felt that a new police facility is needed and that it is felt that the new option at the industrial site is considered the best one. It is felt that the joint court/police option is out. He acknowledged and commended the five-year plan for civic improvement, however, it is felt that the timeline is no longer realistic as construction is proposed for fiscal year 04/05. A new site would require site acquisition, site improvement, design and construction and would take time. He noted that a building is available and is suitable for a police facility as it is a shell that could be constructed to create an ideal police facility. He requested that the Council direct staff to move forward with this option. He conceded that there could be a more ideal location. However, he felt that the Vineyard building is accessible to the public.

Robert Benich spoke in favor of collocating the new police station on the same property with the new County courthouse as it makes sense to share parking and detention facilities. He felt that the courthouse facility is in the right location, close to an emerging Morgan Hill downtown center, close to transportation facilities and highway access routes. He felt that it made sense to have an integrated architectural and landscape design between the courthouse and the police station. He urged the Council not to give up so easily in its plans for a police station on the same property with the courthouse. He noted that the police department is currently operating out of a 10,000 square foot building. If the new building doubles or triples in size, the community would still have a facility that will serve the needs of the community well into the 21st century. With respect to costs, the Finance Director lists \$6.7 million as a budgeted amount in the City's capital improvement budget. The Morgan Hill Times reports that the owners are asking \$6.4 million for the warehouse and that there

would be an additional \$800,000 on tenant improvements, resulting in a \$7.2 million police facility at Vineyard Boulevard. He noted that the Business Assistance and Housing Services Director indicates that the estimated cost for new construction of \$8.4 million would still result in a \$1.6 million shortfall. He inquired where these funds would come from? He noted that the staff report suggests three funding sources: 1) police impact fund (\$1.2 million), 2) city library land sale (\$1.7) and 3) certificates of participation debts for a subtotal of \$7.2 million. He identified three other alternatives: 1) Look at the sale of the existing police facility at \$1.2 million; 2) use RDA funds to benefit the community. If the City can build libraries, aquatic centers and other facilities, the city should be able to build a police facility. 3) Reduce the aquatics center budget. He felt that the community needs a police station more than an aquatics center. He said that it makes sense to share facilities between a courthouse and a police station and that it should be built in the best location to serve all the people of Morgan Hill. He recommended that the Council do what is best for the community and not capitulate to the County Board of Supervisors.

No further comments were offered.

Mayor Kennedy requested an update on the availability of land adjacent to the courthouse for public facilities.

City Manager Tewes indicated that the RDA acquired a parcel of property on Butterfield, south of the train station and that it is approximately 8 acres. These 8 acres are to be made available for a courthouse and a police facility nearby. He stated that the City has an agreement with the County that requires them to jointly master plan the facility with the City, but gives them the authority to use the entire 8 acres if they so chose. He noted that the Council has in its packet a letter from the general services administrator of the County indicating that as they begin moving through the courthouse planning process, they have identified additional court related space that they would like to locate in south county. This would require more of the 8 acres than originally anticipated. City staff felt that the County could get by on 6 acres, leaving a 2-acre parcel for a new police station. However, as the County moves through their planning process to consume more of the space, the City was left with an odd shaped, narrow parcel of less than 2 acres. If the County is to proceed as proposed, there would not be a site sufficient on the Butterfield/Diana property for a police station. He noted that the letter also indicates that the County may be able to leave behind 3/4 of an acre. He felt that the 3/4 acre could work for a fire station but would not be adequate for a police station.

Council Member Tate inquired about the whole philosophy of community policing as having a civic presence and being apparent in the community. He did not believe that the Vineyard industrial location lends itself to community policing.

Chief of Police Galvin said that community policing talks about officers to citizen relationships versus what a building looks like. He said that ideally, he would like a civic presence. He felt that the Monterey Road would be an ideal location. He did not believe that the location of a police facility would impact the community policing philosophy. What will impact it would be the attitude and how the officers handle themselves in building these relationships.

Council Member Sellers inquired if there is access off Vineyard heading north on Vineyard to Butterfield?

Chief of Police Galvin responded that the Vineyard facility would not access Butterfield. He said that Butterfield would be used in handling calls to the north of the City to avoid traffic on Monterey Road. Once Butterfield is extended next year, access would be east on Tennant and then north on Butterfield Boulevard. He indicated that Ed Gee, Gee and Associates, is the City's architect for the plan. He agreed that collocating a police facility and a courthouse would be ideal but that every indication he has seen is that this would not happen.

Mayor Kennedy inquired if a preliminary layout of how the police department's needs would be met on the Vineyard site has been prepared?

Chief of Police Galvin said that further study would be undertaken to develop tenant improvements necessary to make it an acceptable facility. He said that it would take Council direction to undertake the study.

Mr. Gee agreed that the Vineyard building is oversized. In this particular case, the City would need to consolidate the space in order to allow the police department to work in a compact space. The remaining space could be used for other uses such as parking or for other city activities. He stated that tenant improvements would be needed in order to make the facility work properly.

City Manager Tewes indicated that the owners of the building are in attendance. He noted that this is a fairly brand new building and has never been occupied. He indicated that the building was built for a specified user who chose not to move into the building. He said that building has not been completed and that there are opportunities for a bay of offices and that it can be developed in an efficient manner for a police station. He said that the City would need to identify other potential tenants for the surplus space.

Council Member Tate said that the \$800,000 estimate for tenant improvements appears to be an optimistic number.

Mr. Yee said that the \$800,000 is a low number. The City would need to take a look at the remodel that needs to be done in order to determine the cost. He agreed that this is the next step that needs to be undertaken for the Vineyard site.

Mayor Pro Tempore Carr said that he was disappointed that it appears that the County is going to push the City out of the way and get their way. He said that he was on the Council when County Board of Supervisor Gage informed the City that he and the County would work with the City. Supervisor Gage understood why the City would be interested in collocating a police facility with the Courthouse. He noted that the Council voted 5-0 in support of the plan, at the time, based on this understanding. Now, it appears that these words are now forgotten and stated his disappointment. He said that when the Council agreed to sign the agreement, it was signed not based on a site but based on an idea of a courthouse. He indicated that the courthouse was not to the scale of what the County is talking about now. He noted that the Council is talking about a courthouse grander in scale which he continues to believe is inappropriate at the Diana-Butterfield location. He said that it was disappointing that the City could not find a way to have the County work with the City on this as there are a number of opportunities to share space/parking and to perform a design that will work well for the downtown. He was disappointed in reading the letter

from the general services director of the county that they are using a fine tooth comb to go through the agreement to get whatever leverage they can on the City to get what they want in the heart of the downtown and not consider the wishes of the community, residents and the leadership of Morgan Hill. He appreciates the situation that the police officers have been working in for too long. He felt that something needs to be done as quickly as possible to alleviate this.

Mayor Kennedy suggested that the Council direct staff to move forward on two fronts: 1) looking at the Vineyard location, conducting an appropriate initial design in order to get a cost estimate of what it would cost and time (e.g., feasibility analysis of the Vineyard site). 2) Push back on the County on the Butterfield site or another site near the Butterfield site. Staff to take the next step in order for the Council to compare both alternatives with a little for certainty and clarity. He felt that the Council needs to have enough information on both alternatives in terms of cost, timing and feasibility so that it can make a decision.

Council Member Sellers felt that Mayor Kennedy's suggestion makes sense because it would provide the Council with missing information. He wanted to see space for the police department to be set aside and that the City identify what the surplus space might be used for. He felt that there was a silver lining to the courthouse situation. He said that the expansion of the courthouse facility was due to the County's interest in expanding court facilities for south county. He felt that this would afford an opportunity to expand economic development opportunities in and around the area. He agreed that there would be an advantage to having a police department collocate with a courthouse. However, he felt that there was a greater advantage to having a fire department at the Butterfield/Diana site as it would be an ideal location for a fire station. He felt that the Council needs to talk about the fire versus police station option and how it may weigh into the decision making process. He requested that the City Manager take a more active role in the negotiations of the Vineyard Boulevard site as he possess a unique set of skills that can be employed at this particular site. He wanted staff to take a closer look at the tenant improvements, including them in negotiations as creatively as possible. He felt that there were significant opportunities in looking creatively at tenant improvements. He noted that it was mentioned that building a public facility always costs more. He felt that doing public tenant improvements could also potentially cost more. To the degree that the City can shift these costs to the private sector in the development of the building may be beneficial. He recollected that in 1988, when the City talked about the facility located on Monterey and Main, it was indicated that it was to be a temporary solution and that it ended up costing a lot more to do the improvements than acquiring the building. It became far more than being a temporary building. He did not believe that the Vineyard facility would be a temporary facility. Therefore, the Council needs to carefully weigh the loss of an industrial site and its impact long term. He said that he would like to see the police station move from the Vineyard site 5-10 years if the circumstances prescribed, but that he did not believe that this would happen.

**Action:**      *Mayor Kennedy made a motion, seconded by Council Member Sellers, to **direct** staff to conduct a feasibility study/cost analysis and time estimate for the use of the industrial building on Vineyard Boulevard; and to **continue** discussions with the County regarding collocating a police station on the Butterfield site or a site adjacent to it. Staff to look at alternative permanent sites and return with acquisition costs.*

Council Member Sellers felt that this would be a first step in a series of steps and felt that it would be important to move forward with it.

Council Member Tate stated that he took the opportunity to tour the facility today and indicated that he has conducted a couple of ride alongs with the police in the past. He said that the comparison is unbelievable. He concurred with the idea of looking at some of the alternatives, noting that it is cramped at public works and getting more cramped at city hall. He wanted to know what other city facilities could be relocated to the Vineyard site and what other things can be done at this facility. He expressed concern with giving the police officers a plush facility to hang out and then expect them to be out in the community and performing community policing. He said that he would be interested in pursuing the Vineyard facility not because he did not agree that the collocation with the courthouse was optimal but that it would be several years down the road. He noted that the City signed an agreement that would allow the County to come in and do what they are doing. He noted that the Council has asked the City Manager to test the agreement with the County. He would agree to test the County again but that he did not believe that it would go very far. He stated his support of looking hard at this alternative, understanding the costs in more detail. He felt that \$800,000 in tenant improvement is low and that the Council needs a much better estimate, including other functions for this facility.

Mayor Kennedy said that the City needs to move forward with the acquisition of a permanent site, if the Council was going to proceed with the CIP. He felt that the Council needs to look at sites anyway. He felt that this may be the time to look at permanent sites. He said that it may turn out that the City cannot afford another site near the courthouse or this location.

Mayor Pro Tempore Carr stated that he was also interested in exploring other opportunities in shared use with other tenants. He would like to send comments of disappointment to the County about how the discussion about the courthouse and the beginning of a relationship of a significant county facility in the middle of the community has been met with a lack of cooperation from their end. He did not believe that this is the way for the County and City to get off on the right foot.

Mayor Kennedy agreed to write a letter, with the assistance of the City Manager, to remind the County that they have forgotten what they have agreed to. He felt that the City needs to hold the County accountable. Above all, he felt that this would help to move the police facility forward in both cases.

Council Member Sellers inquired how long it would take for staff to return with a report.

City Manager Tewes said that staff would return with a report on space planning and cost estimating in 30-60 days.

***Vote:*** The motion ***carried*** 4-0 with Council Member Chang absent.

## ***City Council Action and Redevelopment Agency***

### **OTHER BUSINESS:**

### **31. COMMUNITY PLAYHOUSE PROJECT - ADDITIONAL FUNDING REQUEST**

Director of Public Works Ashcraft presented the staff report.

Mayor/Chairman Kennedy opened the floor to public comment. No comments were offered.

Council/Agency Member Sellers said that it has been helpful to hear back what problems were encountered. He said that the Council knew that there would be issues especially with this building. He felt that it forces the Council to look harder at how much this project would really cost and to see if costs could be cut a little. He stated that it makes sense to make the additional funding.

Director of Public Works Ashcraft indicated that a decision this evening would not delay the project.

**Action:** *On a motion by Agency Member Sellers and seconded by Agency Member Tate, the Agency Board, on a 4-0 vote with Vice-chairwoman Chang absent, **Appropriated** an Additional \$50,000 From the Current Redevelopment Agency's Project Contingency Balance to Augment the Total Project Budget.*

**Action:** *On a motion by Council Member Sellers and seconded by Council Member Tate, the City Council unanimously (5-0), **Authorized** the City Manager to Execute a Purchase Order in an Amount Not to Exceed \$35,000 with Office Products & Interiors (OPI) for Furnishings at the Playhouse Project.*

### ***City Council Action (Continued)***

#### **OTHER BUSINESS:**

### **32. DRAFT ECONOMIC DEVELOPMENT STRATEGY GOALS, POLICIES, AND ACTIONS**

Director of Business Assistance and Housing Services Toy presented the staff report. He addressed the draft Economic Development Strategy Goals, Policies, and Actions as recommended by the Economic Development subcommittee consisting of Council Member Tate and Mayor Pro Tempore Carr. He clarified that not all actions contained in the report are necessarily endorsed by staff or the subcommittee but that it was felt that they were important enough to include in the report to solicit input from the Council. He requested Council input and comments on the Economic Development Strategy. The subcommittee believes that the Chamber of Commerce needs to be provided an opportunity to submit comments on the draft Economic Development Strategy. Comments would be referred to the subcommittee for revisions and brought back to the Council for consideration.

Mayor Pro Tempore Carr said that the subcommittee has met a couple of times and have reviewed the Economic Development Strategy with Mr. Toy and the City Manager. He said that the items left open were areas that the subcommittee felt Council discussion was warranted in order to give staff direction. One thing that was clear to the subcommittee was that these were important steps to take

and complete before proceeding with any implementation. He indicated that requests for assistance are piling up. It was made clear that the draft Economic Development Strategy needs to be discussed by the Council before economic development implementation. He recommended that the Council spend time discussing some of the issues and that further direction be given so that the subcommittee and staff can further define some of the points.

Council Member Tate did not believe that this would be a simple process. He stated that the subcommittee needs input from the Council to figure out if the Strategy is proceeding in the right direction. If so, the Council needs to take the actions stated. As a result of these actions, the Council may have to establish other policies and directions. He stated that this did not turn out to be as simple as it would be to get directly to the answer.

Mayor Kennedy referred to goal 6 relating to tourism and felt that it was a good goal to implement. However, he felt that it was a gut level belief. He noted that all of the goals talk about doing things that benefit a strong stable economic base, things that really improve the City's economic base. He felt that Goal 6 is a little different as it encourages tourism with development activities. Other than a gut level, he inquired why include this goal?

Council Member Tate responded that the Committee did not spend time on goal 6. The Committee wanted to get a general feel from the Council whether it was a goal worth pursuing before spending time on this goal. He indicated that the Committee did not have enough time in two weeks to fully cover all strategies.

City Manager Tewes indicated that there some general plan policies that talk about tourism at least at the same level of generalities as this draft strategy. If this is an important priority, the City would need to invest significant resources in attracting tourist attractions such as Bonfonte Gardens, a museum or something that has the potential to attract individuals from outside the community. He stated that the City has wonderful amenities in the community but that they were not at a level where we would see individuals coming to Morgan Hill from other regions unless a tourist attraction is developed.

Mayor Kennedy felt that a possible tourist attraction would be a Thomas Kinkade Museum. If the City retains the goal, it would allow the City to look for this type of opportunity. He supported goal 6 in concept but felt that it was a gut level support. He said that the Transient Occupancy Tax provides an increasingly significant percentage of the City's budget. If you look at this percentage, it is about 10% of the general fund budget when it is doing well. He recommended that more substance should be placed on goal 6 and determine why it is important.

Council Member Sellers stated that he was grappling with a couple of themes that keep recurring. One is a lot of reports and analysis as first steps in most cases, proceeding from this point. He felt that this would be a significant investment and that he was anxious about this. He stated that he was anxious about the City generating more paperwork and less activity than would be preferable. He felt that it would be appropriate to have the Chamber come back to the Council and provide input. He was anxious that the Council would be dictating the entire Chamber set of activities. On the other hand, he felt that the Chamber was too dependent on the Council's direction and funding. He said that a traditional Chamber of Commerce is a business organization that has specific roles and

functions and did not necessarily get public funding. He wanted to know where the line is drawn so that everyone is clear where the Chamber starts from.

Council Member Sellers referred to Action 3 that talks about the PUD guidelines. He felt that there could be some value in this but that he wanted to make sure that City staff is not working in cross purposes. He indicated that he has seen instances where there is an interest in an initial tenant wanting to establish and develop PUD guidelines. He felt that there was significant resistance from the planning end from doing this. He did not know if the City needs to spend the \$40,000 to perform the PUD when the City has someone ready to conduct the PUD. He said that he would prefer to address this issue and figure a way around it before spending money doing what the private sector would typically do. He requested that this concern be giving some consideration.

Council Member Sellers referred to 4.d.1 that talks about developing, training, and marketing programs to provide downtown merchants with tools to compete. He felt that the downtown association would take this as their charge to the degree that it ought to be. He said that downtowns have evolved to a degree that they are different kinds of retail mix and that they are not in direct competition. He was not sure how much of a priority 4.d.1 should be and felt that it moves down in priority because they are not parallel universes.

Council Member Tate stated that the recognition of what is being stated by Council Member Sellers is what was trying to be stated. The committee was trying to state that it does not believe that the downtown knows how to differentiate themselves.

Council Member Sellers said that in terms of recruitment, the businesses that will locate in the downtown would not necessarily locate in other areas and vice versa. He did not want to start the issue of competing against the rest of the world when the City is in its own world. He felt that the Downtown Association would be addressing a lot of this and felt that it would be important to reference this but that it would be taken on in itself.

Mayor Pro Tempore Carr stated that goal 4.d.1 is a high priority to him. He indicated that the committee spoke specifically about working with the Downtown Association. If a large scale retailer wants to locate in one of the City's business park that would provide competition and damage to the downtown, he felt that the City should be looking for mitigations to this. He stated that the Downtown Association would be the appropriate venue to work this through. He felt that this action and other actions within this specific policy tries to address this issue.

Council Member Sellers stated that other smart cities have told Walmarts, coming into their towns, to pay for the Downtown Association. He said that these are separate issues from training. Regarding the auto district and auto dealers that might locate in Morgan Hill in the future, he felt that it would be more of a fundamental issue of answering how many auto dealerships the Council would like in Morgan Hill. He felt that the discussion was leading toward how many auto dealers would like to locate in Morgan Hill and that he did not believe that the Council was there yet. He felt the Council needs to answer for itself the desirability of locating additional auto dealerships, and if so, how many. He said that the desire of 1 or 2 or 8-10 would be a different discussion. He wanted to have Council discussion about how many dealerships, if any, it would like to locate in Morgan Hill.



Mayor Pro Tempore Carr said that there were several items that the Committee was hoping to receive additional Council comments on such as goal 3, policy 3.d and the discussion about marketing, public relations and advertising services.

Council Member Sellers stated that the bullet points under 3.d.2 were more specific. He said that target mailing may or may not be desirable. He did not know if this should be referenced under this point. He was anxious about implementing the whole strategy at the front end. He would like to know what the City is selling before it starts selling a strategy.

Mayor Kennedy felt that the Council needs to determine what it wants to sell. Is it big box retailers, small shops for the downtown, industrial job producers or all of the above? He felt that the Council could be overwhelmed. The question is what the City should focus its marketing on? He said that it would be his intuition to market across the board and see what can be attained. However, if the Council spends a lot of money on marketing, the City may recruit some good potential businesses only to tell them that their businesses were not being sought.

Mayor Pro Tempore Carr said that a key to this question is not to consider this one policy and action item in a vacuum. Throughout the strategy, the committee talked about the different types of clean businesses and talked about maintaining agricultural. There was discussion about a lot of different things that became a part of the development strategy. He felt that all of these things become part of the strategy. Also, discussed were the things in Morgan Hill that would attract someone to this area. He felt that some of the answers are contained throughout the document if you can consider the strategy as a whole. He inquired whether it was appropriate to implement an advertising campaign in target mailing and to spend limited resources on economic development?

Council Member Sellers felt that the City should be looking at industrial opportunities for several reasons. He noted that the City has one of the largest industrial parks in Silicon Valley. He felt that the City has significant opportunities. He noted that industrial businesses have different criteria for locations and that it is not retail driven purely by customer base. He felt that the City has opportunities to make a specific case where someone can locate in specific locations. He said that there will be some retail recruitment opportunities being developed by the Downtown Association. However, in a broader sense, he felt that a use locates in a site when it makes sense. He stated that he would like to have the input of the Chamber of Commerce and others on how to do this before implementing the strategy and start recruiting big businesses.

Mayor Kennedy inquired whether the Committee looked at studies that identify the market the City should go after?

Mr. Toy indicated that the City has a study performed by Sedway that clearly identified what markets should be targeted. He stated that staff looked at the study and that the City achieved some of the target areas. He said that this study has not been updated and noted that one of the actions is to update the study. He said that the target industry analysis would include an economic base goals (action 1.a.1). He explained that a cluster analysis is an analysis that helps the City determine what its strengths are and which industries would like to locate in an area.

Mayor Kennedy cautioned that when the target industry analysis is conducted, that it be kept open

ended and broad in order to truly find out the potential for Morgan Hill. He recommended that the analysis be kept open ended to determine the range of good possibilities for Morgan Hill. He felt that the analysis would help determine the target.

Council Member Tate indicated that the Committee tried to address this by stating that the City has to keep up with the target analysis and look at it every year. He did not believe that it can be kept so broad that you can't focus. He felt that the City has to have a target.

Mayor Kennedy felt that an open-ended analysis would determine what industry to target.

Director of Business Assistance and Housing Services Toy said that once the base analysis is completed, it will give the Council a range of industries to target.

Mayor Kennedy stated that the Sedway report looked only at certain retail markets rather than looking at target industries for the community. He felt that the report focused on retail and not the broad overall classification (what businesses as a whole would work).

Director of Business Assistance and Housing Services Toy indicate that Sedway updated their retail and industrial strategy in 1996 or 1997 and recommends some issues that they felt the City could absorb but did not address some of the businesses recruited such as Abbot Laboratories.

Mayor Pro Tempore Carr recollected that as part of the General Plan update, when the Council looked at sales tax leakage from the community and where it is was losing its dollars, the Council looked at the climate base that the City has to be able to support industry. It was his belief that this was different.

Mayor Kennedy did not believe that the Council should narrow the analyses and recommended that it be a broad base analysis.

Council Member Tate indicated that this is not just a leakage analysis.

Council Member Sellers stated that it would be helpful to him to have another week or two to digest the information and to hear back from the Chamber of Commerce their thoughts.

Council Member Tate was not sure that the committee received the direction it needs regarding the auto dealerships (4.e.2). He felt that the Council already decided on this issue and that staff is suggesting that the Council does not presume a target but that the Council figure out what the target can be. He felt that the Council majority agreed on a target of 4-5 dealerships and targeted the area east of the freeway for these additional dealerships.

Mayor Pro Tempore Carr stated that he did not recall the Council agreeing to a specific number of auto dealerships. It was his recollection that the Council discussed a specific dealership on the east side of the freeway. He expressed concern that there may be some Council members that may be assuming that an auto mall would be built in the community. If so, this troubles him. If the Council is proposing to build 1 or 2 dealerships, then perhaps the east side of the freeway may not be the right place to locate them.

Council Member Sellers stated that he was not comfortable in resolving the dealership issue this evening. He felt that there would be community backlash if all the Council decides that a large number of dealerships can be accommodated in the City. He wanted to make clear to the public that should the Council proceed with this, it is merely to determine what would be possible but that the Council is far from deciding what is desirable.

Mayor Pro Tempore Carr noted that conducting an analysis would not be cheap.

Mayor Kennedy said that if there are some hard limits that each Council member has, that the Council should discuss these limits.

City Manager Tewes said that staff interpreted the Council's direction to be that it was not looking for an auto mall, but an auto district that the Council identified should be located at the East Dunne Avenue/Highway 101 interchange. The auto district to consist of 4 or 5, and no more, dealerships. Therefore, the notion of the growth demand analysis that determines how many car dealerships can come to Morgan Hill is already limited by Council policy. If the City can absorb 10, the City would only have 4-5 dealerships. However, if the City cannot achieve 4 or 5 dealerships, the suggestion was that it may lead to different decisions about land use. He reported that interest continues to remain high in auto dealerships in Morgan Hill. He felt that 4 or 5 is about the right number and that he was not sure whether the City needs to spend \$50,000 to find this out.

Council Member Sellers stated his agreement with City Manager Tewes comments.

Mr. Toy said that a conceptual plan would be included and depending on where the auto district would be located, would include elevation and design guidelines. This could be done without the growth demand analysis but would need to know which site the Council is interested in.

Mayor Kennedy felt that auto districts would want to locate by the freeway, near major intersections. He withdrew his support of the idea of spending \$35,000-\$40,000 to conduct a demand analysis because it was his belief that the Council already knows what it wants. He supported spending more time on this issue and not rush through a decision this evening.

Mayor Pro Tempore Carr referred to policy 5.1, the idea of establishing and implementing a business retention/expansion program and the role of the Chamber. Action 5.1.5 talks about the fact that the City currently gives the Chamber dollars to perform certain actions. The question is whether the Council wants this to continue or discuss future partnerships. He noted that 5.m.9 relates to retention and how the Council wants to continue the relationship with the Chamber and what the relationship will be. He understood that the Council would need to hear back from the Chamber regarding this area.

Mayor Kennedy addressed 5.1 and stated that having served on the Chamber board and, from time to time, the Economic Development Committee, he felt that the Chamber does a good job with the business retention and expansion program in place. He felt that this is a good area for the Chamber to continue to work and for the Council to continue to support their efforts.

Mayor Pro Tempore Carr concurred with Mayor Kennedy's recommendation under the current terms

of the contract.

Mayor Kennedy opened floor to public comment.

Bob Engles indicated that he was present on behalf of the Chamber of Commerce and the business community at large. He stated that the Chamber's Chairman, Alex Kennett and President Sunday Minnich were unable to attend the meeting this evening. The Chamber would like the Council to know that it would like to have time to review the strategy put forth by staff and the committee. The Chamber would like to return to the Council with its thoughts, looking forward in working with the staff in furthering the economic development strategy in the future.

Mayor Pro Tempore Carr requested that the Council consider the role of city government in economic development and consider more emphasis with things that deal with infrastructures, one the City is good at. He noted that the Council received a report this evening about the PL566 and how it affects the downtown plan. He felt that the Council could use all of its economic development money on trying to work on flood control projects in downtown and not complete them. He felt that city government does well in infrastructures and that there should be more emphasis on the types of infrastructures that it can be doing, encouraging the market beyond that. Mentioned was the idea of PUDs and other things that the City does well and he felt that there were more things that the City could do. He encouraged the Council members to give thought to this for the next meeting.

Mayor Kennedy said that at the PL566 meeting, there was discussion of possible RDA assistance to help this project such as a loan to perform engineering work. He inquired how much funding was set aside for flood control or storm water retention, if any.

Director of Public Works Ashcraft said that \$4.5 million has been set aside specifically for West Little Llagas Creek to be spent 3-4 years out in conjunction with the Water District when they build the project. He indicated that it is not in this year's budget but is included in the CIP budget 3 to 4 years out to finance the local connections to the PL566. He was not sure as to the RDA's cash flow. He noted that it is not ear marked in this year's budget but that it has been earmarked from the \$147 million, \$4.5 million specifically for this project. He said that this may be a possibility. It was his belief that there was another \$2 million set aside for other drainage improvements.

Mayor Pro Tempore Carr noted that the City has earmarked dollars for flood control but that the City also has economic development dollars that could be used for some of these things.

**Action:**            **No action taken.**

- 1) COMMUNITY INDOOR RECREATION CENTER - RECEIVE SUBCOMMITTEE RECOMMENDATION AND AWARD PROFESSIONAL CONTRACT FOR ARCHITECTURAL DESIGN**

Deputy Director of Public Works Struve presented the staff report.

City Manager Tewes said that the recommended actions this evening are for Council to: 1) consider

the subcommittee's report and their recommendation that the City contract with Noll & Tam; 2) approve the scope of work; and 3) authorize staff to negotiate a contract. He indicated that the City has standard architectural contracts and that the scope of work that would be included are significantly more expensive than what has been presented as their fee proposal. He clarified that staff is not asking the Council to approve this specific scope of work but that in the course of negotiations, details will be included in the standard agreement form.

Council Member Sellers felt that the internal process of this subcommittee had some significant flaws. He indicated that Noll & Tam had a lot of patience with the process. He stated that a selection committee was put into place and that the process became a little disjointed. He said that the problem that was encountered was the divergence between allowing for input from individual members but coming to a consensus and moving forward with it. He said that the subcommittee reached a point where it decided on a firm, Noll & Tam, and a contract was negotiated. At this point, there was some concern from individuals that there was an interest in enhancing the design, to some degree. He stated that he did not share in this view as it was his belief that the right firm had been selected and brought the right balance of enthusiasm, talent and ability to work with the community to the project. He stated that he is satisfied with the recommendation because Noll & Tam was selected and was the choice of the committee. He felt that Noll & Tam would render an exciting project. When the Council went to Colorado to look at a project, a couple of things became obvious. He noted that one firm performed most of the projects. It was a dilemma when the Council came back because California did not have firms that performed these kinds of projects. He indicated that the subcommittee was satisfied with the product and felt that Nolle & Tam would present a project that would be exciting to the community, one that works well.

Council Member Sellers urged the Council to approve the recommendation this evening and allow staff to move forward with it. He indicated that he and Council Member Chang spoke earlier today who expressed her reservations. She asked that the decision be delayed a few weeks. After discussion, they came to the conclusion if the process allowed for her to meet with Mr. Davis and satisfy her concern, that the Council can move forward this evening, contingent upon and with the understanding that this would happen. He said that at the annual retreat, he would like to discuss the role of the subcommittees and the role of individual Council members of subcommittees because road bumps were hit in the process that impacted the process and made it difficult for the firm. It also taxed their patience and tested their professionalism on several counts. He stated that he would like to try to avoid this in the future.

Mayor Kennedy opened the floor to public comment.

Charles Weston, Weston Miles Design, said that the City is embarking upon the construction of 3-5 public facilities. Not only will there be the initial cost of building them but that there is maintenance and return on investment portions that rarely gets addressed. He has spoken to a couple of Council members about the green program. It was his believe that the Council has instructed, in the requirements, that this project reach as high as it can, achieving gold. He cautioned that going after points is not a good thing. He recommended that the design of the indoor recreation center be sustainable. In order for the City to receive a return on investment, the City should look at strategizing ways to reduce the heating and cooling loads. He recommended that the City hire a commissioning agent who would oversee the whole mechanical/electrical systems from the very

beginning to see how they integrate with the architectural design and continue using them throughout the construction administration process. Doing so would save the City lots of money annually.

Janet Tam, Noll & Tam Architects, stated that she is well aware of the City's policy to try to achieve something as ambitious as gold. She said that she has created a team and has incorporated in her fee proposal several different Leed requirements that are needed to attain gold. She invited Council members to attend a meeting to talk about how this building would be made sustainable and what it would take to achieve platinum or gold. She said that everyone on the team is aware that the City is trying to achieve gold. She said that the team includes experts in the field of sustainability. She indicated that Lynn Simon, who is Leed certified, would be leading the process. The team also includes a cost estimator who is conversed in determining the costs associated with sustainable features of a building. The mechanical engineer is also conversed in sustainability. She indicated that the mechanical engineer from Taylor Engineering was requested to include additional commission during the course of construction administration.

Mayor Kennedy noted that Mr. Weston suggested a separate commissioning consultant be included.

Chris Knoll, Noll & Tam Architects, felt that it would be possible to have an outside engineer/specialist to come in to do the commissioning. He said that this would be a part of the Leed certification process to have an outside professional.

Ms. Tam indicated that an outside person is not a part a part of her fee proposal nor included in the scope of work.

Mayor Kennedy requested that Tam Knoll display the works of Mr. Chuck Davis.

Ms. Tam explained that Mr. Davis' roll in the process would be as designer responsible for the overall design of the building, site development, to guide the design process, set the design direction and to be very much involved and part of the design team.

Mayor Kennedy said that he received a call earlier from Council Member Chang requesting a two-week delay on this item. He felt that this is an important project that needs to keep moving forward. He stated that he was comfortable proceeding with the team that has been assembled and felt that they would do a good job.

No further comments were offered.

**Action:**        *On a motion by Council Member Tate and seconded by Council Member Sellers, the City Council, on a 4-0 vote with Council Member Chang absent, **Approved** the Scope of Work From Noll & Tam Architects for Architectural Design Services in an Amount Not to Exceed \$1,765,300.*

**Action:**        *On a motion by Council Member Tate and seconded by Council Member Sellers, the City Council, on a 4-0 vote with Council Member Chang absent, **Authorized** the City Manager to Negotiate and Execute the Professional Services Agreement, Subject to*

*Review and Approval by the City Attorney.*

Mayor Pro Tempore Carr stated that he was still interested in exploring more about what Mr. Weston presented this evening and requested that staff address his comments at a future meeting date. He noted that the Council has set a high ambitious goal of gold certification.

Council Member Tate noted that the Council has discussed whether it wanted to achieve certification versus achieving a level of certification.

City Manager Tewes indicated that the Council authorized the hiring of a position of "Senior Project Manager" with the criterion that it be a licensed architect. He indicated that staff has found a licensed architect who would be starting early in December. He indicated that staff would return with further information regarding certification.

**35. URBAN LIMIT LINE (GREENBELT) STUDY: FORMATION OF CITIZEN ADVISORY COMMITTEE AND PARTICIPATION IN THE CONSULTANT SELECTION**

Director of Community Development Bischoff presented the staff report, indicating that the Council was provided with a recommended make up of committee members this evening. He advised the Council that there are three actions before them: 1) appoint two council members that would review applications received to serve on this committee; 2) confirm that this is an appropriate composition for the committee, or provide other guidance to staff; and 3) one or more council members assisting staff in screening the applications from architects for this project.

Council Member Sellers indicated that Mayor Pro Tempore Carr has expressed an interest in serving on this committee.

Council Member Tate noted that this is a two-member Council committee to make recommendation to the Council on memberships.

Director of Community Development Bischoff indicated that there is nothing that states that the Council couldn't have these two individuals also be the Council representatives to this committee.

Mayor Kennedy noted that Council Member Chang is not present this evening and recommended that the two actions listed on the agenda be taken, leaving the positions open in order to give Council members the opportunity to consider their request to serve on the subcommittee. He indicated that he would agree to serve on the architect selection committee.

Mayor Pro Tempore Carr said that he would agree to serve on the committee looking at membership but that he would have to understand more about the time constraints and being a part of the committee itself.

Council Member Sellers felt that it was important that Council Member Chang weigh in her interest.

**Action:** Mayor Kennedy **appointed** Mayor Pro Tempore Carr and himself to serve on the two

*Council subcommittee to make the recommendation and to participate in the consultant selection process. The motion carried 4-0 with Council Member Chang absent.*

Council Member Sellers recommended that staff contact the farm bureau first and request their recommendation. He recommended that a citizen be appointed that would represent the agricultural community. He said that he did not want to preclude someone's involvement just because they are not a member of the farm bureau.

**Action:** *On a motion by Council Member Tate and seconded by Council Member Sellers, the City Council, on a 4-0 vote with Council Member Chang absent, **Approved** the Mayor's appointment of Mayor Pro Tempore Carr and Mayor Kennedy to a Two-Member Council Committee to Make Recommendations to the Council on Membership of the Urban Limit Line (Greenbelt) Study's Citizen Advisory Committee.*

**Action:** *On a motion by Council Member Tate and seconded by Council Member Sellers, the City Council, on a 4-0 vote with Council Member Chang absent, **Appointed** Mayor Kennedy and Mayor Pro Tempore Carr to Participate in the Consultant Selection Process for the Urban Limit Line (Greenbelt) Study.*

**Action:** *On a motion by Council Member Tate and seconded by Council Member Sellers, the City Council, on a 4-0 vote with Council Member Chang absent, **concurred** with the make up with the committee.*

**Action:** *On a motion by Council/Agency Member Sellers and seconded by Mayor/Chairman Kennedy, the City Council/Agency Board, on a 4-0 vote with Council Member/Vice-chairwoman Chang absent, **agreed** to extend the meeting beyond the curfew hour of 11:00 p.m.*

### **36. CHALLENGE GRANT FOR UNITED WAY SILICON VALLEY**

Mayor Kennedy indicated that a request was received from United Way. He noted that the Council would be receiving a similar request from MACSA and that there may be other organizations as well seeking Council funding.

Council Member Tate said that when he makes his commitment to United Way he designates the funds to go to Community Solutions as it is the agency he wants to support. If there is a way to contribute to United Way that would allow support of a local agency, he would support funding. However, he would not support if it is just a general contribution to United Way.

Mayor Pro Tempore Carr stated that he has been asked to serve on the South County campaign team for United Way. He said that South County agencies that receive dollars are benefactors. He did not believe that the Council has donated to United Way before but that City of Morgan Hill employees have contributed as a campaign team. He said that the City of Morgan Hill employees have far exceeded employees to the south. He felt that the City is meeting the challenge. He did



not know whether the Council should participate in a City contribution at this time considering that the Council received a request not too long ago that it did not fund. He noted that additional funding requests would be coming before the Council. He stated that he did not know how to gage who to give money to if the agencies were not in the same pool.

Council Member Sellers expressed concern that the Council does not have funding designation for these requests. He inquired whether the Council would be creating another pool for this type of funding. He said that he has had the opportunity to sit with Mark Walkers and that he was excited about his vision for the United Way organization. He felt that the key to his success was an organizational support and not one or two individual groups. The fact that City of Morgan Hill employees have contributed generously is one that the City should be proud of. If the Council was to provide funding, he recommended that the Council encourage United Way to make it a more visible effort, especially if the Council has other funding requests coming up behind this one. He noted that the economy is not doing well and impacts the status of non profits.

Mayor Kennedy inquired how the City gets credit for employee contributions to United Way?

City Manager Tewes responded that the City has a United Way coordinator who participates in the United Way campaign. He stated that he could not tell from Mr. Walker's letter whether he was asking the City to continue its efforts with employees or to appropriate tax payer dollars to United Way, a practice that he is not familiar with.

Council Member Sellers felt that it sounded like United Way was asking for a challenge grant donation from the City of San Jose.

Mayor Kennedy stated that the City's response to United Way would be that the City's employees have a program that includes Council Members who would be contributing. The Council encourages broader United Way participation in the future.

Mayor Pro Tempore Carr recollected that the program that the employees of the City of Morgan Hill support is one of the largest fund raisers for United Way in all South County. He noted that Morgan Hill is not the largest employer in South County but that the City's employees are doing a great job. If the City of San Jose would like to match this dollar for dollar, it would be great.

**Action:**        *It was the consensus of the City Council to **Direct** staff to prepare a response to this letter along the lines of the comments expressed by the Council.*

### **37.    CITY ATTORNEY'S EMPLOYMENT AGREEMENT**

Mayor Kennedy indicated that he and Mayor Pro Tempore Carr served on the City Attorney's employment agreement committee. The Committee submitted an agreement for Council consideration. He complimented City Attorney Leichter on her performance. He felt that this was a good contract and a solid improvement in pay for the excellent performance that she has provided to the City. He stated that the contract agreement reflects this as well.

**Action:**        *On a motion by Council Member Sellers and seconded by Council Member Tate, the*

*City Council, on a 4-0 vote with Council Member Chang absent, **Approved** an Amendment to the City Attorney's Employment Agreement.*

City Attorney Leichter thanked the Council for the continued opportunity to serve it as well as an excellent staff. She further thanked the Council for its continued vote of confidence.

**FUTURE COUNCIL-INITIATED AGENDA ITEMS**

No items were identified.

**ADJOURNMENT**

There being no further business, Mayor/Chairperson Kennedy adjourned the meeting at 11:20 p.m.

**MINUTES RECORDED AND PREPARED BY**

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**IRMA TORREZ, City Clerk**